

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOJO BUSINESS CONSULTING, LLC,

Plaintiff,

Case No. 19-cv-13575
Hon. Matthew F. Leitman

v.

REYAD SALAHALDEEN, *et al.*,

Defendants.

**ORDER (1) VACATING ORDER TO SHOW CAUSE (ECF No. 8) AND (2)
GRANTING PLAINTIFF’S MOTION FOR SUBSTITUTED SERVICE AND
EXTENSION OF SUMMONSES (ECF No. 9)**

Plaintiff JOJO Business Consulting, LLC (“JOJO”) filed this action on December 4, 2019. (*See* Compl., ECF No. 1.) The Summonses against all Defendants – Reyad Salahaldeen, ARS Holdings International LLC (“ARS”), and BioConfirm Laboratory USA LLC (“BioConfirm”) – were issued the next day on December 5, 2019. (*See* Summonses, ECF Nos. 2–4.) Under Fed. R. Civ. P. 4(m), the Summonses are set to expire 90 days after the Complaint was filed. On February 13, 2020, the Court issued an Order to Show Cause why the case should not be dismissed for failure to prosecute (ECF No. 8).

On February 18, 2020, JOJO filed a Motion for Substituted Service and Extension of Summonses Against All Defendants (ECF No. 9). According to JOJO, it has made every reasonable attempt to serve Defendants but has been unable to do

so. (*See id.*, PageID.58–63.) JOJO’s process server made five unsuccessful attempts to serve Salahaldeen at his last-known address, which JOJO determined via a LexisNexis search. (*See id.* ¶¶ 4–5, PageID.59–60.) JOJO’s process server also attempted to serve Salahaldeen and ARS (whose sole member is Salahaldeen) at ARS’s listed business location: 6755 Peachtree Industrial Blvd #150, Doraville, Georgia 30360. (*See id.* ¶ 9, PageID.60.) The process server described the location as “vacant.” (*Id.*) The process server was similarly unable to serve Mohamad Mustafa, the registered agent for BioConfirm, at BioConfirm’s listed address (also 6755 Peachtree Industrial Blvd). (*See id.* ¶¶ 10–11, PageID.61.) JOJO therefore requests (1) an Order for an Extension of the Summonses for a period of 90 days, and (2) an Order for Substituted Service against all Defendants. (*See id.*, PageID.66.)

“Absent a showing of good cause to justify a failure of timely service, [Rule 4(m)] compels dismissal.” *McDonald v. Mich. Dep’t of Corr.*, 431 F. App’x 373, 374 n.1 (6th Cir. 2011) (quoting *Habib v. Gen. Motors Corp.*, 15 F.3d 72, 73 (6th Cir. 1994)). “The plaintiff bears the burden of showing good cause for failure to timely serve.” *Harris v. City of Cleveland*, 7 F. App’x 452, 456 (6th Cir. 2001). “The determination of good cause is left to the sound discretion of the district court.” *Id.* (quoting *Habib*, 15 F.3d at 73). “The defendant intentionally evad[ing] service of process” is one example of good cause, *Friedman v. Estate of Presser*, 929 F.2d

1151, 1157 (6th Cir. 1991), while the plaintiff's "[i]nadvertence or half-hearted efforts to serve do[es] not constitute good cause." *Harris*, 7 F. App'x at 456.

The Court agrees with JOJO that it has shown "good cause for the failure" to timely serve Defendants. Fed. R. Civ. P. 4(m). JOJO's inability to serve Defendants is not due to inadvertence or half-hearted efforts. Rather, JOJO has made repeated, good faith attempts to serve Defendants, and further attempts by its process server are unlikely to succeed. Accordingly, the Court concludes that JOJO is entitled to an extension of the Summonses.

The Court will also grant JOJO's request for substituted service on all Defendants. A plaintiff may serve a defendant within a judicial district of the United States by following "state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made." Fed. R. Civ. P. 4(e)(1). Salahaldeen is a citizen of North Carolina. (*See* Am. Compl. ¶ 2, ECF No. 6, PageID.32.) North Carolina Rule 4(j1) of Civil Procedure allows for service by publication on a "party that cannot with due diligence be served by personal delivery, registered or certified mail, or by a designated delivery service." N.C. Gen. Stat. Ann. 1A-1, 4(j1). ARS and BioConfirm are Georgia limited liability companies. (*See* Am. Compl. ¶¶ 4–5, ECF No. 6, PageID.33.) Georgia Rule 4(e) of Civil Procedure allows a plaintiff to serve a Georgia limited liability company by delivery to the Georgia Secretary of State if,

“for any reason,” a plaintiff cannot serve a Georgia limited liability company by serving the company’s president, managing agent, or registered agent. *See* Ga. Code Ann. § 9-11-4(e). For all the reasons above that the Court finds that JOJO had good cause for its failure to timely serve Defendants, the Court also finds that JOJO has attempted with due diligence to serve Defendants and is entitled to substituted service under the applicable state laws.

Accordingly, the Court hereby **ORDERS** that:

- The Order to Show Cause (ECF No. 8) is **VACATED**;
- Plaintiff’s Motion for an Extension of Summonses is **GRANTED**. The Summonses are hereby **EXTENDED** for a period of **90 DAYS** after the date of this Order; and
- Plaintiff’s request for substituted service against Defendants is **GRANTED** as follows:
 - Defendant Reyad Salahaldeen may be served by publication pursuant to N.C. Gen. Stat. Ann. 1A-1, 4(j1);
 - Defendant ARS Holdings International LLC may be served by delivery to the Georgia Secretary of State pursuant to Ga. Code Ann. § 9-11-4(e); and

- Defendant BioConfirm Laboratory USA LLC may be served by delivery to the Georgia Secretary of State pursuant to Ga. Code Ann. § 9-11-4(e).

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: March 4, 2020

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 4, 2020, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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